

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-000180

01/07/2014

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
C. Kiesling
Deputy

IN RE THE MATTER OF
BRIANA ELIZABETH ISLER

BRIANA ELIZABETH ISLER
826 W KNOWLES CIR
MESA AZ 85210

AND

STEVEN J MORGAN

STEVEN J MORGAN
1616 W GERMANN RD
#2047
CHANDLER AZ 85286

DEBORAH ISLER

KIRK DANA SMITH

ELECTRONIC RECORD SERVICES
FAMILY COURT SERVICES-CCC

MINUTE ENTRY

Courtroom SEF 204

11:54 a.m. This is the time set for continued Trial regarding modifying access. Petitioner/Mother, Briana Isler is present on her own behalf. Respondent/Father, Steven Morgan is present on his own behalf. Interveners/Grandmother, Deborah Isler and Grandfather, Randall Isler, are present and represented by above named counsel.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Briana Isler, Steven Morgan, Deborah Isler, and Randal Isler are sworn.

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LET THE RECORD REFLECT Briana Isler complied with the order to provide behavioral health records to the Court.

Exhibit 1 is marked and received in evidence.

IT IS ORDERED sealing exhibit 1 not to be opened until further order of the Court.

Briana Isler and Steven Morgan testify.

Deborah Isler, having previously been sworn, testifies.

12:41 p.m. Court is in recess.

12:43 p.m. Court reconvenes with all parties present.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Deborah Isler testifies further.

Regarding legal decision-making and parenting time, the Court has considered all of the A.R.S. § 25-403 factors relevant to this case.

THE COURT FINDS:

- Both parents have good relationships with the child.
- Maternal Grandparents also have close bonded relationships with the child. They served in a parental role for some time, when the parents were unable to do so.
- There is no evidence that the child is anything other than well-adjusted to home, school, and community.
- The child is not of suitable age for his wishes regarding his residence to be considered.
- Father is in satisfactory mental and physical health.
- Mother's seizure disorder is not a significant factor in the determination of legal decision-making and parenting time. Mother was advised very recently that she should not be alone because of frequent seizures, but the problem has not been so acute in the past, and there is no reason to think the problem cannot be addressed in the future with proper

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medical care. Both parents testified that the minor child knows how to contact emergency personnel if the need arises.

- Mother did provide records of her treatment with People of Color Network. Those records, and the testimony, raise issues of immediate concern: serious self-harm gestures, residential instability, struggles to identify appropriate medication and use it consistently. Mother cancelled her last appointment with the psychiatrist because she wants to switch to a different provider.
- The hallucinations that grandparents say Mother experienced may have been a side effect of the Ambien she was taking. She no longer takes that medication.
- Each parent is likely to allow frequent, meaningful, and continuing contact with the other. Father has made it clear he would like for Mother to become an equal parent when her health, living situation, and employment are stable.
- Joint legal decision-making would be logistically difficult in this case given the distance between the parents' homes. The child will attend school and see medical providers in Father's neighborhood.
- Neither parent has intentionally misled the Court, engaged in coercive behavior or made false reports. .
- There has been no significant domestic violence or child abuse in this case.

In light of these findings, the Court agrees with Father that it is in the child's best interest for Father to have sole legal decision-making authority while Mother continues to work on her health and stabilize her living situation. The Court is confident that in the future, Father will strike an appropriate balance between protecting the child and supporting an increased role for Mother.

IT IS FURTHER ORDERED that Mother's parenting time shall be Friday after school to Sunday at 7:00 p.m. every other weekend. Supervision is not required.

The parenting time Holiday schedule is as follows:

- Father shall have parenting time on Christmas Eve to Christmas Day. Mother shall have parenting time on Christmas Day until December 26th.

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- Mother shall have parenting time on Thanksgiving Day. Father shall have parenting on Thanksgiving weekend.
- Halloween and Easter will be traded off by the parties on an odd and even year basis.
- On three day weekends the parties will follow the normal parenting time schedule.

Mother's request that the child support obligation be deviated to zero is denied.

LET THE RECORD REFLECT that the Court calculates child support based upon the information provided by the parties, and the Child Support Guidelines. The Court prepares a Child Support Worksheet, which incorporates the Court's findings and is filed with the Clerk of the Court herein.

IT IS THEREFORE ORDERED that **Mother shall pay to Father** as and for child support the sum of **\$ 125.00 per month**, payable through the Support Payment Clearinghouse on the 1st day of each month **commencing February 1, 2014** by Income Withholding Order.

LET THE RECORD REFLECT that an Electronic Income Withholding Order is issued. Confirmation # 411135

IT IS FURTHER ORDERED that at any time an Income Withholding Order is not paying the child support obligation in full, Mother shall make full and timely payments directly to the Support Payment Clearinghouse in accordance with the attached "Instructions for Making Support Payments through the Clearinghouse." Mother is responsible for making the payments directly to the Clearinghouse until the Income Withholding Order takes effect.

IT IS FURTHER ORDERED that Father shall be responsible for maintaining health insurance through AHCCCS. Father or Mother shall provide medical insurance for the child when insurance becomes accessible and available to either at a reasonable cost. When medical insurance is obtained, the parent who has obtained insurance shall provide an insurance card and claim filing information/forms to the other parent. A change in the availability of health insurance coverage may constitute a continuing and substantial change in circumstances that entitles the parent who has obtained insurance to petition for modification of child support. A.R.S. § 25-327(A). All medical, dental and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid 50% by Father and 50% by Mother.

The Court is informed that the parties have agreed to a deviation of past child support.

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THE COURT FINDS that Father is not requesting payment of past support for the child and is requesting a deviation to zero past support.

THE COURT FURTHER FINDS that the deviation would not be adverse to the best interest of the child.

IT IS THEREFORE ORDERED deviating to zero as to past child support.

Regarding third-party (grandparent visitation) rights, the Court has considered the threshold issues under A.R.S. § 25-409(C).

THE COURT FINDS that the child was born out of wedlock and that the parents were not married when the petition for grandparent visitation was filed.

In determining the amount of visitation to be awarded to the Maternal Grandparents, the Court has considered all of the factors under A.R.S. § 25-409(E). The Court has also given special weight to the opinions of the legal parents, as required by law.

THE COURT FURTHER FINDS:

- It is the opinion of both parents that the minor child's best interests will be served by the Maternal Grandparents returning to a more traditional grandparent role.
- The Grandparents have historically played an *in loco parentis* role on behalf of both parents. To some extent they have been stand-ins for Mother.
- The Grandparents and Parents are all sincerely motivated by the child's best interests.
- The Grandparents are requesting a quantity of visitation that may impact Mother's parenting time as well as Father's ability to spend his free time with the child. The child also needs to be able to spend time with members of Father's family.
- The grandparenting role in which the parents envision Maternal Grandparents requires a lesser amount of time than what the grandparents are requesting. Relatively generous grandparenting time is nevertheless warranted in this case because of the grandparents' prior quasi-parental role.

IT IS ORDERED the Islers will have grandparenting time as follows:

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- The first weekend of each month from Friday after school until Monday when the child is dropped off at school.
- Spring break beginning Friday after school until Wednesday morning at 9:00 a.m.
- Four days between Christmas and New Years.
- Two weeks in the summer. Grandparents must give sixty days notice. In even numbered years, grandparents' choice of the two weeks takes priority. In odd numbered years, Father's choice takes priority.

IT IS ORDERED that Mother shall have the child on Mother's Day each year. Father shall have the child on Father's Day each year.

THE COURT FINDS that it is in the child's best interest not to specify when Mother's parenting time shall increase.

As to attorneys' fees under A.R.S. § 25-324, the Court has considered the parties' relative financial resources and the reasonableness of their positions.

IT IS ORDERED awarding Father attorneys fees in the amount of \$4,560.00.

IT IS FURTHER ORDERED that the amount is satisfied by a set off of the child support that is owed by Father to Grandparents.

IT IS FURTHER ORDERED Grandparents are not responsible to Mr. Morgan's attorney for payment. The attorney will not be able to collect from the grandparents. Mr. Morgan will be solely responsible for payment to his attorney.

1:39 p.m. Matter concludes.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81(D), Arizona Rules of Family Law Procedure.

/s/: JOHN HANNAH

THE HONORABLE JOHN R. HANNAH
JUDICIAL OFFICER OF THE SUPERIOR COURT

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LATER:

The domestic relations education provisions of A.R.S. § 25-352 have not been fully satisfied. Both parties have not completed the Parent Education Program requirements of A.R.S. § 25-352 and/or presented proof of completion as required.

IT IS ORDERED both parties shall complete an approved Parent Education Program and file proof of completion with the Clerk of this Court on or before April 1, 2013.

A party who has not completed the Parent Education Program requirements of A.R.S. § 25-352 as ordered may be prohibited from filing any subsequent pleadings to modify or enforce any provisions of this Judgment until he or she has filed proof of completion. A "Parent Information Program Notice" is available to the parties at the Self Service Center and the Family Court filing counter. The notice details the program's requirements and includes a list of approved parent information classes.

LET THE RECORD REFLECT that the Court became aware, after the close of the hearing memorialized in this minute entry, that the audio/video recording equipment in the courtroom was not functioning properly during the hearing. As a result, no transcript of the hearing is available.

IT IS ORDERED that any objections to this minute entry, or requests for court action or legal relief arising from the unavailability of the transcript, must be filed not later than 15 days after the date on which the Clerk files this minute entry. Any objection or request for relief not timely made in writing will be deemed waived, and this minute entry will stand as the record of the hearing.

IT IS ORDERED vacating all prior legal decision-making (custody) and parenting time orders. The terms of this order apply going forward.

IT IS FURTHER ORDERED that the following decision-making and parenting time terms will apply going forward.

Legal decision-making authority, as defined by A.R.S. § 25-401(3), means the legal right and responsibility to make all non-emergency legal decisions for a child including those regarding education, health care, religious training and personal care decisions. For the purpose of interpreting or applying any international treaty, federal law, a uniform code or the statutes of other jurisdictions of the United States, legal decision-making means legal custody.

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“Sole legal decision-making” means one parent has the legal right and responsibility to make major decisions for the child/ren, provided that those decisions do not contradict any provision of the court order or interfere with the other parent’s parenting time or other rights under the court order.

Parental Access To Records And Information- Both parents are entitled to have equal access to documents and other information concerning each child’s education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a prior court order, is subject to appropriate legal sanctions.

Identification of Parents in Service Provider Records- When asked by a school, a health care provider, or any other organization or institution for information about the child’s “mother” or “father” or “other parent,” each party shall name the other and provide the other’s current information including contact information. Both parents are prohibited from naming a step-parent, grandparent or any other person as the child’s “mother” or “father” in registration or information forms. To the extent possible, each party shall complete registration or information forms so as to authorize and direct the school, health care provider, organization or institution to send information directly to the other party.

Educational Arrangements- Both parents have the right to participate in school conferences, the right to consult with teachers and other school personnel events, and the right to attend and participate in school and extracurricular activities. Both parents shall cooperate on educational matters pertaining to each child and shall keep one another reasonably informed regarding the status of each child’s education.

Health Care Arrangements- Both parents have the right to consult with all health care providers (including medical, dental and behavioral health care providers) and to give input for treatment purposes, unless a court order provides otherwise. Both parents have the right to authorize necessary emergency medical/dental treatment. Both parents shall cooperate on health matters pertaining to each child and shall keep one another reasonably informed regarding the status of each child’s health.

Parental Communication (General)- Each parent will promptly inform the other parent of any emergency or other important event that involves a minor child. All communications regarding a minor child shall be between the parents. A parent shall not use a child to convey

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information or to set up parenting time changes, under any circumstances. All communications shall be respectful and without profanity, put-downs or name-calling.

Parental Communication (Extra Activities)- Each parent will consult and agree with the other parent regarding any extra activity that affects the other parent's parenting time. Consent to an activity may not be withheld unreasonably or as negotiating "leverage" in connection with some other parental dispute.

Telephone Contact- Each parent must allow the other to have reasonable telephone contact with the minor child during the child's normal waking hours. Both parents are prohibited from using the telephone, or allowing the child to use the telephone, in a manner that disrupts or interferes with the other's parenting time. The child shall be afforded privacy for parental communications.

Protection From Conflict- Each parent shall encourage love and respect between the minor children and the other parent, and neither parent shall do anything that may hurt the other parent's relationship with the minor children. Neither parent may discuss any aspect of litigation with a child or in the child's presence, or involve a child in any way in conflicts between the parents, except by assuring the child that the parents are trying to work out appropriate arrangements so that the child can have frequent and regular access to both parents.

Support of Parenting Plan- Both parents shall communicate to the child that they are mutually committed to the court-ordered parenting plan. Both parents are prohibited from asking or encouraging the child to request parenting plan changes that would increase that parent's parenting time or that would otherwise favor that parent.

Sex Offender Notification- Arizona law requires a child's parent or custodian to notify the other parent or custodian immediately if the parent or custodian knows that a convicted or registered sex offender or a person who has been convicted of a dangerous crime against children may have access to the child. The parent or custodian must provide notice by first class mail, return receipt requested or by electronic means to an electronic mail address that the recipient provided to the parent or custodian for notification purposes.

Periodic Review- The parties shall review and update the terms of the custody and parenting time plan with each other or with the assistance of a private counselor or Conciliation Services mediator, upon written request, at least every three years or whenever a substantial change in circumstances makes changes in the plan necessary.

Mediation and Conciliation Services- The parties may participate in mediation through a private mediator or through this Court's Conciliation Services to resolve any disputes,

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problems or proposed changes regarding child custody, parenting time or any provision of this custody order, before seeking further relief from the Court. The Court in its discretion may require mediation as a prerequisite to seeking judicial relief. In any event, both parents shall continue to comply with this custody and parenting time plan, and neither may act in a way that is inconsistent with the terms of the plan, while a dispute is being resolved.

Notify Other Parent of Address Change- Each parent shall inform the other parent of any change of address and/or phone number in advance if possible, and in any event within three days of the change.

**PLEASE NOTE: IMPORTANT INFORMATION RE: CD/VIDEOTAPE
FEE CURRENTLY IN EFFECT**

This Courtroom uses an electronic recording system for the record. All CDs and videotapes will be provided by the Court, regardless of when the copies are made. A fee of \$20.00 will apply to all copies requested, either on the day of the hearing or for hearings recorded on an earlier date. Forms to request a recording of a proceeding are available in the Self-Service Centers and in the FTR courtrooms.

If a party wants a court reporter to record a proceeding in this Court, a written request must be filed at least 48 hours before the commencement of the proceedings.

A person requesting a daily copy CD or videotape must complete the appropriate request form and pay the applicable fee at the Self-Service Center. Upon payment of the appropriate fees through the Self-Service Center, a receipt will be issued which shall then be presented to Court staff for preparation of the CD or videotape in the customary manner.

A person wanting a copy of a hearing from a previous occasion must contact Electronic Records Services at 602-506-7100 or Ken Crenshaw at 602-506-7100.

NOTICE: A child should not be brought to the Courthouse to be present during a court proceeding except in the circumstance that the child is to be interviewed by the Judge in chambers or unless the child's presence is otherwise required for the court proceeding. Whenever a child is brought to the Courthouse, it is the responsibility of the party who brings the child to arrange for appropriate care and supervision of the child outside of the courtroom and judicial offices. The duties of Court personnel do not permit them to perform this function.

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All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter> .

Attachments:

STEVEN J MORGAN: IV-D Payment Instructions, Current Employer Information, Non IV-D Payment Instructions